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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,715	04/25/2001	Herwing Janssen	00-40374-US	6268

7590

09/02/2003

Louis M. Heidelberger
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103-7301

EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 09/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Examiner

Applicant(s)

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5/22/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 3-9, 11-23, 25, 26, 75 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 25 is/are allowed.
- ☒ Claim(s) 1, 3-9, 11-23, 26 and 75 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 12
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 27 has been renumbered 75.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-9, 11-23, 26 and 75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The rejections of record are maintained; "long chain" is exemplified, not defined, as applied in claim language wherever it appears (now, at line 67 claim 1, for instance). The rejection of R is maintained, Hawley notwithstanding. Applicants must properly define all terms in a claimed structure-R is not an atom but rather a symbol needed to be defined. Look again at Hawly, there is no H.

27 is incomprehensible-there is no antecedent basis for agents consisting of any component (see rejection of record relating to any component-still maintained it appears in this new claim 75) as the composition is to spinosan derivatives with undefined R. The claim requires any component, or any 2 or more components, just as they are produced by Sispinosa-we do not know whether or not consisting of comprising the

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structure of claim 1, or whether the structure includes components, as, perhaps defined as R, but not so stated-we can not interpret the meets and bounds of this claim. Please spell out PEG (claim 1).

Claims 1-9, 12-23, 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Snyder-6063771.

The rejection of record is maintained-claim 1 now invokes rejected claim 2, 10 subject matter Snyder applies his compositions to kill Lice in water (col.4, I). Claim 75 has a S. spinosa component, spinosyn.

Claims 1-7, 9, 12-16, 22 and 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Kassebaum-WO 01/12156.

The rejection of record is maintained; claims re-written previously rejected, White 75 is also met, (also 4, lines 15-20).

Applicant's arguments filed 5/22/03 have been fully considered but they are not persuasive. Applicants arguments have been addressed above-they are not convincing in regard to 112 and art rejections maintained, but absent the "component" issue, the enablement rejection of 1-23 is withdrawn-we do not instill it on 75, as 75 is not comprehensible. The art rejection are maintained for reasons of record, but we have no ready response to applicant's arguments to the rejection of claim 26 over the art, but we can not find it in the instant specification, either.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

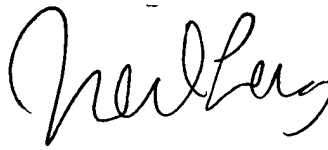
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy/tgd
August 26, 2003


NEIL S. LEVY
PRIMARY EXAMINER